Calendar No. 943

106TH CONGRESS *2d Session*	SENATE	REPORT 106–493

DISTRICT OF COLUMBIA RECEIVERSHIP ACCOUNTABILITY ACT OF 2000

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

H.R. 3995

TO ESTABLISH PROCEDURES GOVERNING THE RESPONSIBILITIES OF COURT-APPOINTED RECEIVERS WHO ADMINISTER DEPARTMENTS, OFFICES, AND AGENCIES OF THE DISTRICT OF COLUMBIA GOVERNMENT

OCTOBER 6 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

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Mr. THOMPSON, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 3995]

The Committee on Governmental Affairs, to whom was referred the bill (H.R. 3995) to establish procedures governing the responsibilities of court-appointed receivers who administer departments, offices, and agencies of the District of Columbia government, having considered the same, reports favorably thereon without an amendment and recommends that the bill do pass.

CONTENTS

I. SUMMARY AND PURPOSE

H.R. 3995 directly addresses concerns about the District of Columbia's receivership programs and the accountability of the receivers. This legislation will promote financial stability and efficient management of the District government, as well as establish communication between the city and the receiverships.

Specifically, the legislation would establish recommendations for how court-appointed receivers in the District should operate. The legislation would mandate that receivers should (1) promote best practices, (2) subject themselves to an annual audit by the city's in-

spector general, (3) ensure that costs are consistent with regional and national standards, (4) consult with the Mayor and the chief financial officer on the budget, and (5) procure through a competitive, open-bidding process.

II. BACKGROUND

The District of Columbia has had four of its agencies placed under court-appointed receivership in the last five years. Typically, court intervention into the administration of government agencies is utilized to bring about brief, drastic change to an agency. However, the District's court-controlled agencies have all languished in receivership for three to five years, some showing minimal signs of improvement.

Two of the four agencies under receivership were returned to the city in September 2000. The D.C. Housing Authority, which has been in receivership since 1995, has proven after five years of receivership to be financially and managerially stable enough to return to the city. The Jail Medical Services, which has also been under receiver since 1995, was returned to the city this September, but substantial concerns remain about the agency. (Although medical and psychological services at the jail have improved under the receiver, environmental conditions remain grave—vermin are rampant, and faulty ventilation greatly reduces air movement in critical parts of the building.)

The Mental Health Services Agency, which has been under receivership since 1997, is slated to return to the city sometime in 2001. However, the agency's return to city control is not due to the receiver's success. Mental Health Services is being returned to the city because the judge that oversees the receiver found that the system has actually deteriorated since being seized by the courts.

The Child and Family Services Agency has also stagnated under receivership for the past five years. A September 20, 2000 hearing by the House Subcommittee on the District of Columbia revealed no progress by the Agency under the receiver. In fact, conditions at the agency were so bad that at the hearing Members called for the agency to return to the city. In addition to these agencies currently under receivership, the city's public school transportation system has been threatened with receivership in recent months due to its inability to address the needs of special education children.

The purpose of court-appointed receivers is to intervene and take over a failing government agency, institute the necessary management reforms to get the agency properly running again, and return the agency to the city in a timely fashion. This has clearly not been the case with the District of Columbia receiverships. Consequently, this legislation establishes minimum standards to guide receivers in managing their operations and maintaining accountability.

H.R. 3995 requires court-appointed District of Columbia receivers to ensure that the costs incurred in administering the agency under receivership are consistent with regional and national standards. Under this legislation, the receiver must use the best means available to promote financial stability and sound management practices within the agency. The receiver must consult with the Mayor and the Chief Financial Officer of D.C. when preparing the annual budget. Estimates of expenditures and appropriations for the operations of the agency must be submitted to the Mayor for

inclusion in the city's annual budget. The legislation also requires an independent auditor to conduct annual fiscal and management audits of the agency under receivership. Nothing in this bill is intended to impede a D.C. receiver's mandate to remedy constitutional violations.

III. LEGISLATIVE HISTORY

H.R. 3995 was introduced by Delegate Eleanor Holmes Norton (D–DC) on March 15, 2000 and referred to the Government Reform Committee's Subcommittee on the District of Columbia. On May 5, the Subcommittee held an investigative hearing on the status of reforms under the Child and Family Services Agency (CFSA) receiver. The following witnesses testified: Congressman Tom DeLay (R–TX), the General Accounting Office's Cynthia Fagnoni, Judy Meltzer from the Center for the Study of Social Policy, CFSA Receiver Ernestine Jones, Deputy Mayor for Health Carolyn Graham, the Mayor's Special Counsel for Receivers Grace Lopes, and Kimberly Shellman from the D.C. Child Advocacy Center. At the hearing, the Subcommittee reprimanded the receiver for her lack of progress and demanded that she show improvement when the Subcommittee called her back in September. However, as discussed in the section above, little progress was made.

Immediately after the May 5 hearing, the Subcommittee held a markup and voted the bill out of Subcommittee by voice vote, with one amendment. The Subcommittee adopted an amendment by Delegate Norton that requires the use of generally accepted accounting principles, fiscal management practices, and an annual fiscal and management review conducted by an independent auditor. In addition, the amendment requires a competitive procurement process unless one of the specified exceptions is met. Finally, the amendment clarifies the applicability of the Anti-deficiency Act. The full Committee on Government Reform approved H.R. 3995 on June 12, 2000, and it passed the House by unanimous consent the same day.

On the Senate side, the issue of receivership accountability was addressed at a May 9, 2000 hearing by the Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia. At the hearing, the Mayor testified that his office had appointed a special counsel to work with the receivers to establish standards and expectations that could be worked into the city's performance accountability plan. The Receivership Accountability Act would open the lines of communication between the city and the receivers in order to make this possible.

On June 13, 2000, H.R. 3995 was received in the Senate and referred to the Committee on Governmental Affairs, where it was subsequently referred to the Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia on June 20, 2000. The Subcommittee approved the legislation by unanimous consent and forwarded it to the full Committee on September 18, 2000. It was ordered reported by the Governmental Affairs Committee by voice vote at a full Committee business meeting on September 27, 2000.

IV. EXPLANATION OF AMENDMENTS

No amendments were offered in the Senate. For an explanation of Delegate Norton's amendment, refer to House Report 106–633.

V. SECTION-BY-SECTION ANALYSIS

Section 1 establishes the bill's short title, "District of Columbia Receivership Accountability Act of 2000."

Section 2 defines a "District of Columbia Receiver" for purposes of this legislation and provides that all D.C. receivers are subject to the requirements of Section 3.

Section 3 requires that D.C. receivers use administration practices which promote financial stability and management efficiency, while ensuring that the costs incurred by the agency, department, or office under receivership are consistent with applicable regional and national standards. The receivers are also required to use generally accepted accounting principles and fiscal management practices to promote efficiency and cost-effectiveness.

Beginning in fiscal year 2001, D.C. receivers are required to consult with the Mayor and the Chief Financial Officer when preparing a budget for the agency, department, or office under receivership. The receiver then submits a budget to the Mayor who forwards it to the City Council pursuant to sections 446 and 603(c) of the District of Columbia Home Rule Act. The Mayor and Council are permitted to make recommendations, but not revisions. This budgetary requirement is effective unless the terms of the D.C. receiver's appointment permit revisions by the Mayor and the Council.

This section also requires that the D.C. receiver and the Mayor jointly choose an independent auditor to conduct an annual fiscal and management audit, unless the terms of the receiver's appointment permit the parties to the court action to select the auditor.

Section 3 requires the use of competitive procedures considered the best suited to the circumstances in order to attain a full and open competitive procurement process. Alternative methods would need to be used if the amount of money involved in the procurement is nominal, the public need is urgent, the receiver certifies that only one supplier is available, or the required services are technical and professional and are performed by the contractor in person, or, the services are performed under the D.C. receiver's supervision and are compensated based on the period of time worked.

Section 4 clarifies that the provisions of subchapter III of chapter 13 of title 31, United States Code, relating to the Anti-Deficiency Act, apply to District of Columbia receivers.

VI. ESTIMATED COST OF LEGISLATION

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 29, 2000.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3995, the District of Columbia Receivership Accountability Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs), and Susan Sieg Tompkins (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3995—District of Columbia Receivership Accountability Act of 2000

H.R. 3995 would require agencies of the District of Columbia that are in receivership to follow certain budgeting, management, and procurement practices. Currently, two District agencies—Child and Family Services and the Commission on Mental Health Services—are administered by court-appointed receivers. Because the legislation would apply only to agencies of the District of Columbia, CBO estimates that enacting H.R. 3995 would have no impact on the federal budget. The legislation would not affect direct spending or receipts, so pay-as-you-go procedures would not apply.

H.R. 3995 contains an intergovernmental mandate because it effectively would require the departments within the District of Columbia that are currently administered by a court-appointed receiver to adopt certain management practices to improve their financial stability. CBO estimates that the costs of complying with this mandate would be minimal, and thus would not exceed the threshold established in the Unfunded Mandates Reform Act ($55 million in 2000, adjusted annually for inflation). The legislation contains no private-sector mandates as defined in that act.

On May 31, 2000, CBO transmitted a cost estimate for H.R. 3995 as ordered reported by the House Committee on Government Reform on May 18, 2000. The two versions of this legislation are identical, as are our cost estimates.

The CBO staff contacts are John R. Righter (for federal costs), and Susan Sieg Tompkins (for the state and local impact). This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

VII. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirement of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory and paperwork impact of H.R. 3995. The legislation contributes to the efficient administration and management of both the Federal and District of Columbia governments by establishing a framework for oversight of the court-appointed receivers in the District of Columbia. It would impose additional regulatory burdens on the court-appointed receivers, but the intent of the increased regulation would serve to streamline the administration of the receiverships, and establish lines of communication between the receivers and the Mayor in order to expedite and smooth the eventual transition of the agency back to the District government. The legislation would also reduce the paperwork burdens on the court-appointed receivers by clarifying the role and responsibility of the receivers. H.R. 3995 would impose no burdens on the public and will improve the management of taxpayer-funded services.

VIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that H.R. 3995, as reported, makes no changes in existing law.

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